

MEMORANDUM OF UNDERSTANDING AMONG  
THE NEW MEXICO COMMISSIONER OF PUBLIC LANDS,  
THE PUEBLOS OF ACOMA, LAGUNA, AND ZUNI,  
AND THE HOPI TRIBE

This Memorandum of Understanding is entered into by the New Mexico Commissioner of Public Lands, the Pueblos of Acoma, Zuni, Laguna and the Hopi Tribe (hereinafter referred to as the "Tribes") to set out a process of consultation on proposed activities on New Mexico State Lands under the control of the New Mexico Commissioner of Public Lands that are located within the boundaries of the Mount Taylor Property As shown on Exhibit A.

I. REASONS FOR ENTERING INTO A MEMORANDUM OF UNDERSTANDING

A. WHEREAS, the New Mexico Constitution gives the New Mexico Commissioner of Public Lands (hereinafter referred to as "Commissioner") jurisdiction over the public lands of the State of New Mexico in Article 13, Section 2 of the New Mexico Constitution; and

B. WHEREAS, there are mandates in place at the federal and state levels that provide for the recognition of the unique relationship that tribes and tribal governments have with the states and the federal government, and these mandates have come about as a result of the issuance of Executive Orders, federal and state statutes, and State Executive Orders; and

C. WHEREAS, both federal and state mandates call for meaningful consultation with all tribes, Pueblos, and Nations, and call for the implementation of "communication and consultation" policies that recognize, honor, respect and show evidence that these mandates are being followed; and

D. WHEREAS, the doctrine of comity, as it pertains to respect among governments, allows one governmental entity to voluntarily consult with other state agencies and governmental entities; and

E. WHEREAS, meaningful consultation among the Commissioner and the Tribes is the best means of respecting the interests of these parties when any state action is proposed on lands under the jurisdiction of the Commissioner which are identified on the attached Exhibit A map; and

J. WHEREAS, this Memorandum of Understanding is a means to describe the agreed upon process for meaningful consultation between the Commissioner and the Tribes when any state action is proposed on lands under the jurisdiction of the Commissioner which are within the boundaries of Mount Taylor as identified on Exhibit A.

## II. THE PROCESS FOR MEANINGFUL CONSULTATION

THE PARTIES HEREBY AGREE THEY HAVE REACHED AN UNDERSTANDING as to how to achieve meaningful consultation on proposed actions on lands within the Mount Taylor area as identified on Exhibit A under the jurisdiction of the Commissioner;

A. When the Commissioner proposes to take any act that could affect any lands under the jurisdiction of the Commissioner within the boundaries of Mount Taylor area as identified on Exhibit A, written notice of the proposed action shall be given to each of the Tribes.

B. If, within ten (10) days of receiving a notice of any proposed action by the Commissioner, any one of the Tribes requests consultation directly with the Commissioner, such consultation shall begin within ten (10) days after the Commissioner receives the request.

C. Consultation to be held among the parties shall comply with the requirements of meaningful consultation as set out in federal law, to wit:

1. Timely notice of the proposed action to the Tribes;
2. Such notice shall inform the Tribes of the potential impact of the proposed action on the lands under the control of the Commissioner;
3. At the request of a Tribe, provision of any additional information that the Commissioner may have about the proposed action that will allow the Tribes to engage in informed consultation with the Commissioner;
4. At the request of a Tribe, attendance of the Commissioner or his lawfully delegated representative at a meeting where one or more of the Tribes may discuss the proposed action with the Commissioner and make recommendations as to whether to go forward with the proposed action, modification of the proposed action, or to reconsider the proposed action;
5. The Commissioner shall fully consider the recommendations of the Tribes; and
6. The Commissioner shall notify the Tribes in writing as to whether or not the recommendations were accepted or rejected by the Commissioner, and the basis for accepting or rejecting any recommendation of a Tribe.

D. Nothing in this Memorandum of Understanding shall prevent the parties from entering into any separate memorandum of understanding or other accord as to how any specific proposed action shall be undertaken.

### III. GENERAL PROVISIONS

A. The Tribes are sovereign Indian nations recognized by the United States of America, and as such, do not waive any of the privileges and immunities as sovereign nations by entering into this Memorandum of Understanding;

B. Nothing in this Memorandum of Understanding shall affect any allocation of authority under existing state law, including, but not limited to the authority of the Commissioner under the Constitution of the State of New Mexico.

C. This Memorandum of Understanding shall be effective upon execution by the Commissioner and any of the Tribes which choose to enter into this Memorandum of Understanding.

D. Nothing in this Memorandum of Understanding shall prevent the parties from entering into agreements for the exchange of confidential or privileged information when the parties deem it necessary for an informed consultation. Confidential information provided to the Commissioner, by any entity or person regardless if a party to this agreement, pursuant to NMSA 1978 § 19-1-2.1 shall remain confidential.

COMMISSIONER OF PUBLIC LANDS

  
Ray Powell, M.S., D.V.M

ACOMA



LAGUNA



ZUNI



HOPÍ

